

THE OHIO DEMOCRAT.

"Where Liberty Dwells there is my Country."—Cicero.

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SPEECH OF MR. DUNCAN, OF OHIO.

In the House of Representatives, March 6, 1844.—On the bill introduced by him to regulate the election of electors for President and Vice President and members of Congress throughout the United States.

Mr. DUNCAN spoke as follows:

There is no higher duty we owe to ourselves, to each other, and to our country, in whatever situation we may be placed, or whatever sphere in life we may fill, than to understand the nature of our government, and the civil institutions by which our rights are to be maintained as citizens, and by which our civil duties and obligations towards each other are to be regulated. This duty is not more binding upon us in a civil than in a political sense. It is indispensable to a faithful discharge of our duties as private citizens that we should understand the nature of a citizen. Those duties involve a knowledge of the legal and political restraints which civil government throws upon us and brings us under. These civil duties and obligations are common to, and binding upon, all men in a state of organized society, whatever the form of government may be; but we, as American citizens, in addition to these duties, owe some of a higher character which may more properly be denominated political duties, which I contrast with civil duties, and a knowledge of the obligations which civil duties impose, appertain to the subjects of a monarchy or an aristocracy. The same civil duties, in proportion to the requisitions of law, appertain to the citizens of a republican government; but owing to the fact that each individual here is not only a citizen, but also a member of the republic, and a part of the law-making power, he owes some higher duties than a mere citizen. Those higher duties I call political duties. Obedience is the duty of the humble subject of the monarchical government while command, is the prerogative of the monarch; but in a republican government, the duties of obedience and submission are united with the prerogative to command, in the same person. Such is the nature of our government. With us, no man can be so low as to shake off the duties of legal and constitutional submission; no man can be so high as to be exempt from them. No man can be so low (in crime excepted) as to excuse himself from a participation in the duties of governing. No man can be so high as to transcend exemption from the obligations and duties of the most humble citizen, or to exercise powers in the establishment of rules of civil conduct, not common to each and every citizen, only as that power is delegated to him by the suffrage of those he represents, in whatever official position he may occupy. And this leads me to an expose of the character of our government. That I do, not only in conformity with a high duty which I owe as a citizen in common, but as a representative; I do it not only because we cannot too frequently refer to first principles, whether in a private or in an official capacity; but because the bill under consideration, in its defence and advancement, requires such an expose, in order to illustrate the absolute necessity of this bill begetting a law.

Sir, our government is a government of the people. It was created by the people; it is sustained by the people; and the people are the government, to every political purpose and intent. And in these consist the great and fundamental difference between a republican (or democratic) form of government and all others. I believe there are but three distinct forms of government regarded as fundamental, viz: a monarchical, and aristocratical, and a republican form; all others are modifications or mixtures of these. All governments were republican in their origin; no people ever were so blind to their own interests, and so regardless of their individual privileges and natural rights, as to surrender them into the hands of any one man or set of men, to dispense them at his or their pleasure or caprice. I make another assertion—that is, that man possesses all the requisites for self-government; and to deny those requisites is a slander to the human family, and a base imputation on the Almighty. I also assert, that no government ever fell by the corruptions of the people. Why, then, (it has been and will be asked) have all republics failed? Why have all governments which depended upon the aggregate wisdom and stability of the people, failed? It is part of my purpose, in my support of the present bill, to answer these interrogatories. At present, I wish to define and illustrate the character of our government; and for that purpose, to illustrate the principles of other governments, and to expose the difference, to the end that ours may be the better understood.

A monarchical government is that which concentrates all power, legislative, judicial, and ministerial, in the hands of a single individual. An aristocracy is that form of government which places the same powers, and the same amount of power, in the hands of a few individuals. Such governments are called absolute monarchies, or absolute aristocracies, as the case may be; absolute, because the mass of the people have no participation in making adjudication upon, or executing the laws by which they are governed. Their civil duties consist in submission and obedience to the laws which they have no hand in making, and submission and obedience to the adjudication and submission, and obedience to the execution of the laws, without any share in the execution, only as the subjects of execution. In such governments, the people are a kind of political automata, with political will or volition, which

move merely as they are moved by the will the laws which govern them, or the will of him or them who make the laws. Such a people may bear, in their external form, the image of their Maker for a time, but have the soul of Balaam's ass; and in time will become asses both in soul and body. A monarchy and an aristocracy may both assume a representative character, by a delegation of the prerogatives of law making, law adjudication, and law execution, which is most generally the case in extensive monarchies and aristocracies; but representative change does not change the character of the government; it only operates to the ease of the monarch, or those holding power in an aristocracy, not to the relief or enfranchisement of the people. Those who receive the delegation of such prerogatives, are the representatives of the original power; and it is his will, power and interests, they are bound to promote—not the interests of the people. And it is most generally the case, that representative monarchies and aristocracies are the most oppressive of all governments; they increase taxation, and oppress still more by means of collection, without in any particular, elevating the character or condition of the subject. But I have neither time nor space to pursue the investigation in detail; it is sufficient to say they are both their nature and practical operation, calculated to oppress the subject, and are worse than no government. I would prefer anarchy; I would rather die in defence of my natural rights, than live a slave. A republican government, I repeat, is a government of the people. The people and the government, in a political sense, are the same. I have said in all republics, all political prerogatives belong to the people: this is literally true. Though our government is a representative democracy, yet all power is in the hands of the people; and their representatives are but their agents, bound by their will, responsible to them, and removable at their will. It was impossible, at the commencement, that ours could be any thing but a representative democracy; our population was too great, and our territory was too wide spread to admit of a simple democracy. The framers of our government were compelled to give us a representative democracy—that is, to authorize us to appoint agents to do that for us, which we according to the fundamental principles of democracy, should have done ourselves. Our ancestors, in the formation of our government, provided the means by which we should appoint our agents. The power and means by which we appoint our political agents or representatives, is called the elective franchise. To define all our free institutions which make up our proud and glorious political fabric, is foreign to my present purpose, nor does the support of the present bill require such a range. There is one of our free institutions which I propose very briefly to discuss—I mean the elective franchise. That is one which, of all others demands our attention, our consideration, and our especial guardianship. Of all our proud institutions, that is the proudest; of all free institutions that is the most valuable. It is the soul and body of our republic; it is the basis of our political fabric; it is the foundation of all our free institutions. Destroy it, and our government loses its name, and all our free institutions are annihilated. They become in an instant, a part of the dust of other republics; and with them, must be numbered among the things that are not. The elective franchise is not only the arch of our own, and every other pillar of the temple of liberty, but it is the rule by which freedom is measured; for just in proportion to the exercise of the elective franchise, so are any people free and sovereign. Freedom and the elective franchise are synonymous terms and handmaids. The one has no abiding place without the other. They walk hand in hand together, they live together, they die together. The framers of our government were so conscious of the vast importance of the elective franchise, that they interwove it in the political institutions of our country in such a manner that it could not be destroyed without bringing ruin upon all others. Our ancestors had a right to expect that this franchise, which was purchased with the blood of thousands, and with the treasure of millions, would be appreciated as a rich legacy—would never be squandered. They had a right to suppose that those moral, political, and patriotic obligations, and sacred covenants which descended upon their posterity would forever be a secure guaranty against all innovations upon that sacred institution. They had a right to suppose that no son of theirs would be so prodigal and reckless as to squander that legacy which was to provide peace, happiness, freedom, and independence to millions, and for all time. They had a right to hope that no wretch would be found base enough to corrupt that franchise upon whose purity depended the duration of all the free institutions purchased with their blood and their treasure. But not content with that hope to indulge, not content with the obligations of patriotism upon those who were to inherit the rich legacy of their toil, they surrendered religion and morality. They interwove, in the official duties of all who were to have the safe keeping of the elective franchise, a solemn oath. They required the individual whose choice of the law was to select to guard the purity of the elective franchise, to appear at the throne of the Judge of the living and the dead, and in His presence and in His name to bind themselves to permit no unlawful act to tread upon that sacred franchise. Such is the value of the elective franchise and such are the means provided to defend and preserve it in its purity. But in order that this sacred institution shall remain pure, and shall the more completely maintain all our other free institutions, our constitutions and

laws have wisely defined the manner in which it shall be used, and the time when it shall be used, the place where it shall be used, by whom it shall be used, and the circumstances under which it shall be used. A violation of any of those provisions is a violation of the constitution and of the laws regulating the use of the elective franchise, and a corruption and violation of the franchise itself; and he who is guilty of it, is guilty of treason the most dangerous and aggravated; and if the sworn officer, whose duty it is to guard and defend that franchise, has willfully or negligently permitted such violation, he is guilty of both treason and perjury. And upon the same principle, he who holds an office in corruption to the elective franchise, and in violation of the constitution, is equally guilty of treason, inasmuch as both are violations of a sacred and fundamental principle of the government. All republics have placed a high estimate on the elective franchise, and have imposed penalties for its violations and abuses in proportion to its magnitude.

I believe in the Grecian States, in their republican days, a violation of the elective franchise was punished by death. It was a penal offence for a citizen of one State to vote in, or meddle with the institutions of another. Such an offence was looked upon and punished as treason. It is so, and is and has been considered so, in every republic. An abuse of the elective franchise, is a violation of a fundamental principle of the government, and an attempt to overthrow the government itself. No institution should be guarded with such jealous care as that of the elective franchise; for the overthrow of all others put together, would not so much endanger our liberties. It is the highest duty that every citizen owes to himself, to his country, to the memory of his ancestors, to their blood and treasure spilled and expended in the great revolution by which we were redeemed; and above all, to those who are to come after him, to preserve this franchise in its pristine purity, and to transmit it unsullied to posterity.

My next object is to show that the elective franchise has been basely violated, and the ballot-box most corruptly abused. If I can do that, I will have shown good reasons why this bill should pass, or some other one that will prevent such abuse and such corruption hereafter.

I have stated that our constitutions and laws have defined the manner in which the elective franchise shall be used, as well as who shall be entitled to its exercise; and the same rules prohibit its use in any other way than those designated. For this purpose, election precincts are established in every county in every State in the Union. By the wisdom of our law-makers, those precincts are small; they have also provided for the appointment of a class of officers called judges of election, whose duty it is to know of themselves, or by information, all persons who are or are not entitled to the use of the elective franchise. The judges are sworn to receive no vote from the hand of any one not entitled to a vote within the precinct, and to reject all votes from persons living without the precinct, whether citizens of the State or of the United States, or not. The object of those provisions and guards is to secure the elective franchise from abuse. Our constitutions and laws have peculiarly guarded the States from interference with each other in relation to the privilege or the abuse of the ballot-box and all elections are declared void which are vitiated by illegal votes—whether by illegal votes from the hand of those who have no right to vote, or, having a right to vote, vote in the precinct, county or State, other than that designated as the proper place to vote. It is now my purpose to show that the elective franchise has been violated in all the particulars which I have mentioned, but more especially by persons voting in States, counties, and precincts in which they had no right to vote, and in violation of express laws regulating elections; and defining the privileges of elections; and it is to prevent a repetition of such violations hereafter, and in all time, that I have introduced this bill. It would seem that the framers of the federal constitution had a presentiment of the possibility of the abuse of the elective franchise, in the very manner and by the very means by which it has been violated; hence they reserved the means to the federal Congress of preventing such such an evil.

I hold in my hand the constitution of the United States. The fourth section of the first article reads thus:

"The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time, by law, make or alter such regulations except as to the place of choosing senators."

A part of article second, section first reads thus:

"The Congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States."

And these, sir, are the constitutional authorities for the passage of the bill now under consideration. There never was a time, nor will there ever be a time, when it will be more proper for Congress to interfere and assert its constitutional authority in this matter than at this time.

It would seem, with the knowledge which we possess of the wholesale frauds and unvarnished treason that there were practised in 1838 & '40 that it is an imperative duty which we owe to our situation, to the country, & the oath we have taken, to pass some law which

will arrest a repetition of such frauds. I would be excusable in the mere assertion of the frauds upon the elections of those years, so well as they are known, and so firmly are they fixed in the convictions of this widespread community; but I have promised proofs and exposes, so I proceed to present some of them. I say some of them, for I have neither time nor space to give even those I have, more than a bird's-eye glance; nor have I had time or opportunity to collect the one-thousandth part.

I hold in my hand a book. It is the journal of an investigating committee raised and authorized by the legislature of Ohio to investigate a contest between J. C. Wright, contendor, and G. W. Holmes, contestee, [all of the county of Hamilton,] who were candidates for the Ohio Senate at the annual election of 1840—the former as rank a blue-light federal whig as ever justified the Hartford convention, or worshipped a coon; the latter as pure and as firm a locofoco anti-bank Jeffersonian democrat as ever bore the name, or "skinned a coon," both clever fellows, and highly respectable citizens in every personal and private sense. Holmes was the successful candidate; Wright contested his seat, and this book contains the evidence disclosed by the contest. It is a large book; it contains four hundred and twenty pages; and every page, from the title-page to the last page, is crowded in close lines and small type, with evidence of the basest frauds on the elective franchise. Well as the frauds of 1840 are understood, this book discloses frauds beyond suspicion, and almost beyond comprehension: Did I not owe it to my conscience, to my country, and to my office, and this constitution, which I have bound myself with uplifted hand, and in presence of my God to support,—for the honor of my country, and for the character of our republican institutions at home and abroad, I could wish this book, and all such evidence of frauds practised in that memorable 1840, were among the things that never were. But the evidence is here in books; it has a place in the knowledge and recollection of the people in this country; and it is matter of taunt and boast in other countries. So, our best plan is to use it, and expose it, to prevent a repetition of such frauds. Sir, I have evidence indisputable that not less than seven hundred voters were imported into the single county of Hamilton, at the election of 1840, to defeat the democratic ticket by a regular, organized system of swindling and pipelaying. A part of the evidence is contained in the journal to which I have referred, a part in the acknowledgments of those who participated in the frauds, not only as workers and conductors of the iniquity, but as voters also; but a larger part in letters which I received from persons residing the interior of the State of Ohio, and several other western States—letters received before the election, informing me that arrangements were making by the whigs to send voters by companies to defeat my election, and letters received after the election, informing me that companies had been sent, had voted, and boasted of having done their part to defeat "billy Duncan." I have said that I have neither time nor space to display but a small part of this mass of evidence. I can only present one of the most glaring items, and merely allude to the balance. Pipelayers flocked from other districts, and other States—some on foot, some on horseback, some on mules, by wagon-loads, by stage-loads, and by steamboat-loads. My time will only permit me to notice the steamboat-loads. I will ask the clerk to read the following deposition. The clerk reads:

57.—Deposition of Jefferson Peak.

In the matter of the contested election, where the seat of George W. Holmes, in the Senate of the State of Ohio, is contested by an elector of Hamilton county, the said George W. Holmes appeared by his attorney, Thomas J. Henderson, at the clerk's office of the Galatin circuit court, in the town of Warsaw, county of Gallatin, State of Kentucky, on the second day of December, 1840, agreeably to the annexed notice, and adjourned over until to-morrow morning Dec. 3, 1840, as endorsed on said notice.

DECEMBER 3, 1840.

Met pursuant to adjournment, when Jefferson Peak, a witness, produced on the part of said George W. Holmes, who being duly cautioned and sworn, deposes and says:

Question by Thomas J. Henderson, attorney for Geo. W. Holmes.—Please to state if you know of any person or persons taken to Cincinnati to vote at the State election held on the 13th of October last; and if you know anything about it, state all you know in relation to them?

Answer by Deponent.—I went on board the steamboat Mail, at this place, on the night previous to the State election in Ohio, for Lawrenceburg, Indiana, on business for Messrs. Peake and Roberts, of this place. On going aboard, I found the boat was so much crowded, that there was no possible chance for sleep, either on the floor, or in a state-room or berth. As there were so many persons on board, over and above places for sleep, including the floor, myself, with a number of others, were compelled to sit up all night, or nearly so. I did get to lie down a short time before day by occupying an other man's place on the floor, which he had just left.

During the night on our way up, nearly all the conversation seemed to be in relation to the Ohio election, that was to take place on the next day; and a great many of the passengers, that I saw that night did not have the appearance that cabin passengers usually

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